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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6304 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? - YES

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2. To be referred to the Reporter or not? - NO

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3. Whether Their Lordships wish to see the fair copy  
of the judgement? - NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? - NO

5. Whether it is to be circulated to the Civil Judge? - NO

KESHAVBHAI CHHABABBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

KUM. VP SHAH, Senior Advocate with KUM. KJ BRAHMBHATT  
for the Petitioner

SHRI TH SOMPURA, Assistant Government Pleader for  
Respondent No. 1

SHRI AJ PATEL, Advocate for respondents nos.2 to 5.

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 20/09/96

ORAL JUDGEMENT

The petitioner has moved this petition under Article 226 of the Constitution of India for a writ of mandamus directing respondent no.1 to trace out the proceeding initiated under Section 34 of the Urban Land (Ceiling and Regulation) Act, 1976 ('the Act' for brief) by means of one show cause notice issued on 27th July 1987.

It is not necessary to set out in detail the facts giving rise to this petition. It may be sufficient to note that the petitioner filed his declaration in the prescribed form under Section 6(1) of the Act. Pursuant thereto the competent authority at Ahmedabad passed the necessary order under Section 8(4) of the Act on 1st April 1985. Its copy is at Annexure.A to this petition. It appears that thereafter certain lands were released from exemption under Section 20(2) of the Act. Thereupon the case was re-opened. A fresh order came to be passed on 3rd April 1986 under Section 8(4) of the Act declaring the holding of the petitioner to be in excess of the ceiling limit by 1258 sq.mtrs. Its copy is at Annexure.B to this petition. It appears to have come to the notice of the concerned officer of the State Government (respondent no.1 herein) and he appears to have found it not according to law. Its suo motu revision under Section 34 of the Act was therefore contemplated. A show cause notice thereupon came to be issued on 27th July 1987 calling upon the petitioner to show cause why the order at Annexure.B to this petition should not be revised. Its copy is at Annexure.C to this petition. It appears that the file of the proceeding was misplaced. Thereupon the petitioner has approached this Court by means of this petition under Article 226 of the Constitution of India for a writ of mandamus directing respondent no.1 herein to trace out the file of the proceeding.

Learned Assistant Government Pleader Shri Sompura for respondent no.1 states on instructions that the file of the proceeding has been traced out and the matter would be disposed of as expeditiously as possible.

At this stage, learned Advocate Shri Patel for respondents nos.2 to 5 has submitted that, after the order at Annexure.B to this petition, the petitioner has disposed of certain parcels of land in favour of respondents nos.2 to 5 after obtaining the necessary permission under Section 26(2) of the Act. This position is not disputed at least by the petitioner herein. It is true that this petition is completely silent on this aspect of the matter. However, since it is not disputed

by and on behalf of the petitioner that certain parcels of land were sold to respondents nos.2 to 5 herein by the petitioner and other persons entitled to units under the order at Annexure.B to this petition, it would be desirable on the part of respondent no.1 to associate them in the proceeding initiated by the show cause notice at Annexure.C to this petition under Section 34 of the Act. Learned Advocate Shri Patel for respondents nos.2 to 5 waives service of the show cause notice on their behalf. It will be open to them to file their reply thereto preferably within one month from today. It is obvious that the reply filed by them or on their behalf will be taken on record in the proceeding initiated by the show cause notice at Annexure.C to this petition.

In view of my aforesaid discussion, since the relief prayed for is only for tracing out the file of the proceeding, this petition can be said to have become infructuous on the statement made by learned Assistant Government Pleader Shri Sompura for respondent no.1 that the file of the proceeding has been traced out. However respondent no.1 deserves to be directed to dispose of the proceeding as expeditiously as possible preferably by 31st March 1997.

In the result, this petition is accepted to the aforesaid extent. Respondent no.1 is directed to dispose of the proceeding initiated under Section 34 of the Act by means of its show cause notice issued on 27th July 1987 at Annexure.C to this petition as expeditiously as possible preferably by 31st March 1997 in the light of this judgment of mine. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.

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